

REMARKS

The Office Action mailed December 11, 2001 has been received and the Examiner's comments carefully reviewed. The Examiner allowed claims 35-45 and indicated that claims 26-34 and 47-53 contain allowable subject matter. Applicants thank the Examiner for this notification. Claims 22, 46 and 48 have been amended. Applicants have included herewith a document entitled, "VERSION WITH MARKINGS TO SHOW CHANGES MADE" to indicate how the claims have been amended. Claims 54 and 55 have been added. No new subject matter has been added. Claim 47 has been canceled. Claims 22-46 and 48-55 are currently pending. For at least the following reasons, Applicants respectfully submit that the pending claims are in condition for allowance.

Claim Objections

Claims 26-34 were objected to, but would be allowable if rewritten in independent form. Applicants thank the Examiner for this notification.

The Examiner also indicated that claims 47-53 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, and rewritten in independent form. Applicants believe the claims are not in conformance with 35 U.S.C. § 112. Claim 46 has been amended to incorporate the subject matter of now cancelled claim 47. Therefore, Applicants respectfully requested notification of allowance of claims 46 and 48-53.

Rejections Under 35 U.S.C. § 112

I. Claims 46-53

The Examiner rejected claims 46-53 under 35 U.S.C. §112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps.

Specifically, the Examiner indicated that the omitted step pertained to applying the force to a horse susceptible to exercise induced pulmonary hemorrhage. Independent claim 46 has been amended to incorporate the language of "wherein said horse is susceptible to exercise induced pulmonary hemorrhage." Applicants submit that claims 46 and 48-53 are now in conformance with 35 U.S.C. §112 and respectfully request withdrawal of this rejection.

II. Claim 49

The Examiner rejected claim 49 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 49 initially contained a typographical error and was intended to depend upon claim 47, rather than claim 46. The subject matter of claim 47 has been incorporated into claim 46. Applicants submit that the amendment to claim 46 corrects the antecedent basis of claim 49, and respectfully request that this rejection be withdrawn.

Rejections Under 35 U.S.C. §103

The Examiner rejected claims 22-25 and 46 under 35 U.S.C. §103(a) as being unpatentable over *Mooney* (U.S. Patent 1,232,956). Applicants respectfully traverse these rejections, but have amended claims 22 and 46 to advance this application to allowance. Applicants reserve the right to pursue the original subject matter via a continuation application.

III. Claims 22-25

Claim 22 has been amended to clarify that the force directed away from the first and second nasal passages is applied "to an exterior surface" of the first and second lateral vestibular wall. *Mooney* teaches a respirator having pads that are positioned within a horse's nose. The force of the respirator acts upon an interior surface of the horse's nose. *Mooney* does not teach or suggest applying a force to an exterior surface of the horse's nose.

Therefore, Applicants respectfully submit that independent claims 22 is patentable over *Mooney*. Claims 23-25 depend upon claim 22 and are therefore also patentable.

IV. Claim 46

Claim 46 has been amended to incorporate the subject matter of objected-to claim 47. For the reasons state above with respect to the Examiner's objections, Applicants respectfully submit that independent claim 46 is patentable over *Mooney*.

V. Claim 54

Claim 54 has been added and depends upon allowed claim 40. Applicants submit that dependent claim 54 is allowable.

VI. Claim 55

New independent claim 55 recites a method for reducing exercise induced pulmonary hemorrhage in a horse including applying "an adhesive support device" to the skin of the first and second lateral vestibular wall of the horse. For at least the reasons forming the basis for allowability with respect to claim 46 and objected-to claim 47, Applicants submit that independent claim 55 is patentable.

SUMMARY

It is respectfully submitted that each of the presently pending claims (claims 22-46 and 48-55) is in condition for allowance and notification to that effect is requested. The Examiner is invited to contact Applicant's representative at the below-listed telephone number if it is believed that prosecution of this application may be assisted thereby.

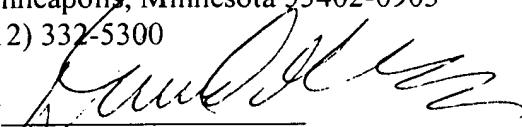
Although certain arguments regarding patentability are set forth herein, there may be other arguments and reasons why the claimed invention is patentably distinct. Applicant reserves the right to raise these arguments in the future.

Respectfully submitted,

MERCHANT & GOULD P. C
P. O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: 3/11/02

By


David G. Schmaltz
Reg. No. 39,828
DGS/KAF:rlr



S/N 09/438,676

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims

Claims 22, 46 and 48 have been amended follows:

22. (Amended) A method for reducing exercise induced pulmonary hemorrhage in a horse, said method comprising a step of applying a force to an exterior surface of a first and second lateral vestibular wall overlying a first and second nasal passage of a horse, said applied force being directed away from said first and second nasal passages, wherein said horse is affected by exercise induced pulmonary hemorrhage.

46. (Amended) A method for reducing exercise induced pulmonary hemorrhage in a horse, said method comprising a step of:

- [applying] adhering to skin of a first and second lateral vestibular wall overlying a first and second nasal passage of said horse, a support device that provides a force directed away from said first and second nasal passages, wherein said horse is susceptible to exercise induced pulmonary hemorrhage.

48. (Amended) The method according to claim [47] 46 wherein said support device extends over a bridge of said horse's nose.

New claims 54 and 5 have been added.